

IF AFTER DUE NOTICE THE INDIVIDUAL AGAINST WHOM ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, NEVERTHELESS THE BOARD MAY HEAR AND DETERMINE THE MATTER.

REVISOR'S NOTE: This section is new language derived in part from the fourth sentence of Art. 43, § 480(a) and the second sentence and the first two clauses of the third sentence of (g).

In subsection (a) of this section, the introductory language, "§ 2 except as otherwise provided in the Administrative Procedure Act", is new language added to clarify that the Board may summarily take action against an individual under certain circumstances. See Art. 41, § 250A(c) of the Code.

The express inclusion of the power to reprimand a licensee in § 11-310 of this subtitle -- when read with this section -- results in new express requirements that a hearing be held before the Board may reprimand a licensee and, consequently, that the review procedures of § 11-312 of this subtitle be available to the licensee after a final Board decision to reprimand. This change is made to conform with other present health occupation board provisions of Art. 43 and to meet fundamental requirements of fairness.

Subsection (b) of this section is standard language added to this and, where necessary, corresponding sections of other titles of this article. It demonstrates clearly the intended application of the Administrative Procedure Act, Art. 41, § 244 et seq. of the Code, to administrative hearings under this section. Thus, the present references to the duty of the Board to send a complaint and a written judgment and the power of the Board to examine witnesses are deleted as essentially repetitious of rights already provided in the Administrative Procedure Act.

As to subsection (c) of this section, the statement that the individual may appear with counsel is implicit in the scheme of the Administrative Procedure Act; however, since this provision is stated explicitly in present Art. 43, § 480(a) and (g), it is retained in this section.

Subsection (d) of this section is new language added to clarify that the Board may proceed with an ex parte hearing if the accused person has been given due notice.